

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

EJENIE M.,

Plaintiff,

-v-

5:23-CV-1251 (AJB/CFH)

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

APPEARANCES:

HILLER COMERFORD INJURY
& DISABILITY LAW
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SOCIAL SECURITY ADMINISTRATION
Office of the General Counsel
Attorneys for Defendant
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OF COUNSEL:

JUSTIN M. GOLDSTEIN, ESQ.

JASON P. PECK, ESQ.
Special Assistant U.S. Attorney

Hon. Anthony Brindisi, U.S. District Judge:

ORDER ON REPORT & RECOMMENDATION

On October 6, 2023, plaintiff Ejenie M.¹ (“plaintiff”) filed this civil action seeking review of the final decision of defendant Commissioner of Social Security (“Commissioner”) denying her application for Supplemental Security Income under the Social Security Act. Dkt.

¹ On May 1, 2018, the Judicial Conference’s Committee on Court Administration and Case Management issued a memorandum that encouraged courts to better protect the privacy of non-governmental parties in Social Security matters by using only the first name and last initial of the claimant in published opinions.

No. 1. Along with her complaint, plaintiff moved for leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 3.

The matter was referred to U.S. Magistrate Judge Christian F. Hummel for the issuance of a Report & Recommendation (“R&R”). *See* Dkt. No. 4. Thereafter, Judge Hummel granted plaintiff’s IFP Application, Dkt. No. 7, the Commissioner filed a certified copy of the Administrative Record, Dkt. No. 10, and the parties briefed the matter in accordance with General Order 18, which provides that an appeal taken from the Commissioner’s denial of benefits will be treated as if the parties have cross-moved for a judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure, Dkt. Nos. 15, 18, 19.

On December 9, 2024, Judge Hummel advised by R&R that plaintiff’s motion should be granted, that the Commissioner’s motion should be denied, that the Commissioner’s final decision should be vacated, and that plaintiff’s benefits claim should be remanded for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g). Dkt. No. 20. The matter has recently been reassigned to this Court for a decision. Dkt. No. 21.

Neither party has lodged objections. The time period in which to do so has expired. *See* Dkt. No. 20. Upon review for clear error, the R&R is accepted and will be adopted. *See* FED. R. CIV. P. 72(b).

Therefore, it is

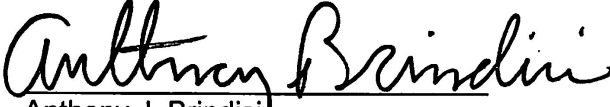
ORDERED that

1. The Report & Recommendation (Dkt. No. 20) is ACCEPTED;
2. Plaintiff’s motion is GRANTED;
3. The Commissioner’s motion is DENIED;
4. The Commissioner’s final decision is VACATED; and

5. This matter is REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with this Order and Judge Hummel's R&R.

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.


Anthony J. Brindisi
U.S. District Judge

Dated: January 13, 2025
Utica, New York.